

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Public Services - Commercial Taxes Department - Issue of way bills to M/s. S.V. Traders, Patancheru indiscriminately by Sri S. Srinivas Naidu, Deputy Commercial Tax Officer, Patancheru (Retired) - Disciplinary proceedings under rule 9 of A.P. Revised Pension Rules, 1981 read with rule 20 of APCS (CC&A) Rules, 1991 initiated - Charges framed - Enquiry conducted - Imposition of penalty of 25% cut in pension for a period of 4 years by withdrawing an equivalent amount from his monthly pension under rule 9 of A.P. Revised Pension Rules, 1980 - Orders - Issued.

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REVENUE (VIGILANCE- I) DEPARTMENT

G.O.Rt.No. 673.

Dated:02-05-2012.

Read the following :

1. From the Commissioner, CT, AP, Hyderabad Letter No. V3/2278/2004, Dt: 3.12.2004.
2. From the APAT, orders dt:21.4.2005 in O.A.No. 235/2005 filed by Sri S. Srinivas Naidu, DCTO (Retired).
3. Memo No. 48975/Vig. I(1)/2004-3, Revenue (Vig. I) Dept., Dt:3.12.2005.
4. G.O.Ms.No.379, Rev. (Vig. I) Dept. Dt: 27.3.2006.
5. G.O.Rt.No.676, Rev.(Vig. I) Dept.,Dt:27.3.2006.
6. From Sri S. Srinivas Naidu, D.C.T.O (Retired) written statement of defence dt: 28.3.2008.
7. G.O.Rt.No.1183, Revenue (Vig. I) Dept. Dt: 24.8.2010.
8. From Sri G. Phaneendra Reddy, Assistant Commissioner, CT, Hyderabad (Rural) Division & Inquiry Officer, Letter Rc No. S9/269/2011, Dt: 25.8.2011.
9. From the Commissioner, CT, AP, Hyderabad, Letter No. V2/1714/2004, Dated 27.8.2011.
10. Govt. Memo No.48975/Vig. I(1)/2004-12, Dt: 17.10.2011.
11. From Sri S. Srinivas Naidu, DCTO (Retd.), representation, dt: 19.11.2011.
12. From the Commissioner of Commercial Taxes, A.P, Hyderabad, Letter No.V2/1714/2004, Dt: 6.2.2012.
13. Govt. Letter No. 48975/Vig. I(1)/2004-15, Dt: 6.3.2012.
14. From the Secretary, A.P. Public Service Commission, Letter No. 615/RT/1/2012, Dt: 12.4.2012.

ORDER:

In the reference 1st read above, the Commissioner of Commercial Taxes, AP, Hyderabad reported that Sri S. Srinivas Naidu, while working as Deputy Commercial Tax Officer, Patancheru, Sangareddy had committed irregularities in issuing waybills indiscriminately to M/s. S.V. Traders, Patancheru and accepted meager turnovers, while doing assessments without cross verification and scrutiny with regard to waybills received from Check Posts, which revealed that the dealer disclosed less turnovers when compared with original way bills received from the Check post and evaded tax. He never enquired into the details of transactions, due to which there is a heavy loss of revenue to the State exchequer and requested the Government

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to initiate disciplinary action against the individual under A.P. Revised Pension Rules, 1980, as the individual retired from service on attaining the age of superannuation on 29.2.2004.

2. In the reference 2nd read above, the A.P. Administrative Tribunal, directed the respondents to release the pensionary benefits along with interest, as admissible to the applicant by holding that it is open to the respondents to take any action in accordance with law, as deemed fit. After examination, Government have decided to implement the orders of A.P. Administrative Tribunal. Accordingly in the reference 3rd read above, the Commissioner of Commercial Taxes, A.P, Hyderabad was requested to take necessary action to release the pensionary benefits to the individual. Subsequently, the individual also filed C.A.No. 324/2006 in OA.No. 235/2005 before the A.P. Administrative Tribunal for payment of interest admissible on belated payment of pensionary benefits. Government after examination, sanctioned an amount of Rs.5344/- (Rupees five thousand three hundred and forty four rupees only) towards interest admissible on gratuity, vide G.O.Rt.No. 1166, Revenue (Vig. I) Department, Dt: 23.5.2006 and therefore, the Hon'ble Tribunal vide their orders, dt: 21.6.2006 closed the contempt case.

3. In the reference 4th read above, sanction was accorded under sub-clause (i) of clause (b) of sub-rule (2) of Rule 9 of A.P. Revised Pension Rules, 1980 to initiate departmental proceedings against Sri S. Srinivas Naidu, Deputy Commercial Tax Officer (since retired) and in the reference 5th read above, charges were framed against the individual for committing certain irregularities in the case; with a direction to submit his written statement of defence. Sri S. Srinivas Naidu, Deputy Commercial Tax Officer (Retd.) has submitted his written statement of defence in the reference 6th read above. After examination of the matter, Sri G. Phaneender Reddy, Assistant Commissioner, Commercial Taxes (LTU), O/o. the Deputy Commissioner, Commercial Taxes, Hyderabad Rural Division was appointed as the inquiring authority to conduct inquiry into the matter and Sri E. Aravinda Reddy, Commercial Tax Officer, Sangareddy Circle, Nizamabad Division was appointed as Presenting Officer to present the case, vide reference 7th read above.

4. In the reference 8th cited, the Inquiring Authority has furnished inquiry report and held that two charges framed against Sri S. Srinivas Naidu, Deputy Commercial Tax Officer (Retd.) are proved.

5. Government have examined the findings of Inquiring Authority and observed that the Charged Officer has shown carelessness and lack of vigilance in discharging his official duties and the consequences of such lapse has been monetarily very high and taken a provisional decision to impose a penalty of 25% cut in pension for a period of 4 years as per the provisions of rule 9 of A.P. Revised Pension Rules, 1980, since the pensionary benefits of the individual were already released. Accordingly, in the reference 10th read above, Government have communicated the copy of the enquiry report together with the above provisional decision to impose the above penalty to the individual; directing him to submit his representation.

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6. In the reference 11th read above, Sri S. Srinivas Naidu, Deputy Commercial Tax Officer (Retd.) has submitted representation stating that the Enquiry Officer held that the two charges are held proved based on two grounds i.e., (i) that he should have suspected the genuineness of the Dealer and (ii) that he should have cross verified the utilization statements, but they are not tenable, as there was nothing adverse against the dealer during that time. He has stated that this has never been the practice in the Department and the practice in the Department is to verify only the used way bills when it has been received from the other officer / check posts. The observations of the Enquiry Officer that when the Dealer had received 100 way bills on 28.10.2003 and filing the "nil" returns for the month of November, 2003 on 19.12.2003, the Charged Officer ought to have enquired about the utilization of way bills is not correct, since he had already transferred the assessment file to the Commercial Tax Officer on 26.12.2003 when the gross turnover of the Dealer exceeds the threshold limit. After transferring the file, he could not make any enquiries as he has no power / jurisdiction to verify the way bills. He, has finally requested to drop the proposed penalty against him and also requested to provide an opportunity of personal hearing to further explain about his case.

7. Government have examined the contentions of the individual keeping in view the report, dt.09.11.2004 of the Deputy Commissioner, Commercial Taxes, Nizamabad Division, Nizamabad and found that the Dealer obtained way bills from the Deputy Commercial Tax Officer, Patancheru (Sri S. Srinivas Naidu) on 27.6.2003, 14.7.2003, 19.8.2003, 20.9.2003, 16.10.2003 (170 way bills under APGST and 100 under CST); and on 28.10.2003 the Delinquent Officer has issued another 100 bills; totaling 270 way bills on APGST and 100 under CST. But, the Deputy Commercial Tax Officer never scrutinized or compared with the returns and no cross check reference was issued and blindly accepted the turnovers as furnished by the dealer in the way bills. The contention of the Delinquent Officer that he had transferred the file to Commercial Tax Officer on 26.12.2003 and he had no jurisdiction to verify the way bills utilization was also examined and found that in earlier way bills also (ie., during the period from 27.6.2003 to 16.10.2003, 170 way bills under APGST and 100 way bills under CST) the Dealer showed less turnover when compared to actual turnover and the vehicle No. and consignee name were also entirely different in the details of utilization statements filed, when compared to the original way bills. Thus, the Delinquent Officer showed carelessness and lack of vigilance in discharging his legitimate duties and he was negligent. Hence, the negligence in discharging of his official duties stands proved, as held by the Enquiry Officer. Accordingly, Government have decided to confirm the provisional decision to impose 25% cut in pension for a period of four years against the individual and addressed the A.P. Public Service Commission for their concurrence. In the reference 14th read above, the Secretary, A.P. Public Service Commission has communicated the consent of the Commission to impose the above penalty against the individual.

8. Government after careful examination of the matter, hereby impose the penalty of 25 % cut in pension for a period of four years against Sri S. Srinivas Naidu, Deputy Commercial Tax Officer (Retired) under rule 9 of A.P. Revised Pension Rules, 1980. Copy of the advice of the A.P. Public Service Commission, dt: 12.4.2012, as required under rule 23 of APCS (CC&A) Rules, 1991 is herewith furnished to the individual.

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9. The Commissioner of Commercial Taxes, A.P, Hyderabad shall take necessary further action accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**ASUTOSH MISHRA
PRINCIPAL SECRETARY TO GOVERNMENT**

To
Sri S. Srinivas Naidu, Retired Deputy Commercial Tax Officer,
Flat No. 402, Anusuya Residency, Malakpet Colony, Hyderabad - 36(w.e)
through the Commissioner of Commercial Taxes, A.P, Hyderabad.
The Commissioner of Commercial Taxes, A.P, Hyderabad
(with a request to serve the G.O on the individual and send the served
copy with dated signature to Government)

Copy to:

The Secretary, A.P. Public Service Commission, Hyderabad.
The Accountant General, AP, Hyderabad.
The Director of Treasuries & Accounts, Hyderabad.
The Revenue (CT.I) Department.
PS to Prl. Secretary to Government, Revenue Department.
SF/SC.

//Forwarded :: By Order //

SECTION OFFICER.